

REMARKS

Claims 1-17 are pending in this application. Claims 1 and 9 are the independent claims. Claims 1 and 9 are amended. Claims 16 and 17 are added. Reconsideration and allowance of the present application are respectfully requested.

Statement Under 37 C.F.R. §1.133(b)

In response to the telephonic interview conducted April 30, 2009, Applicant wishes to thank the Examiner for the courtesies extended during the interview. During the interview, proposed claim amendments overcoming the 35 U.S.C. §101 rejections were presented to the Examiner and the Examiner indicated that the proposed amendments would overcome the rejections. It should be noted that a basis for making the claim amendments may be found in at least paragraph [0021] of the published application (US Publication no. 2005/0047347), which discloses example embodiments based on the universal mobile telecommunication system (UMTS) network infrastructure implementing a next generation Wideband code division multiple access (W-CDMA) air interface technology where the method steps of the invention occur in a wireless network.

Rejections under 35 U.S.C. §101

Claims 1-15 stand rejected under 35 USC §101 as not falling within one of the four statutory categories of invention. This rejection is respectfully traversed.

The Examiner rejects claims 1-15 as the Examiner asserts that the claims do not recite method steps that are either tied to a particular machine or transform the

underlying subject matter, as required by In Re Bilski.¹ Applicant amends the claims such that the method steps are now tied to a “cellular network element.” Applicant therefore asserts that the method steps of the claims are tied to a particular machine, as defined by In Re Bilski.

Therefore, Applicant respectfully requests that the rejections of these claims under 35 U.S.C. §101 be withdrawn.

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¹ See *In Re Bilski*, 545 F.3d 943 C.A. Fed., 2008.

CONCLUSION

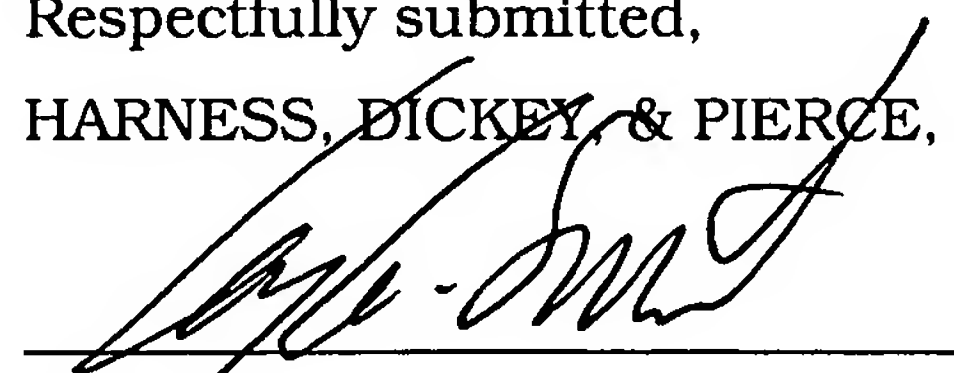
In view of the above remarks and amendments, Applicant respectfully submits that each of the rejections has been addressed and overcome, placing the present application in condition for allowance. A notice to that effect is respectfully requested. If the Examiner believes that personal communication will expedite prosecution of this application, the Examiner is invited to contact the undersigned.

Should there be any outstanding matters that need to be resolved in the present application, the Examiner is respectfully requested to contact the undersigned at the telephone number below.

If necessary, the Commissioner is hereby authorized in this, concurrent, and future replies, to charge payment or credit any overpayment to Deposit Account No. 08-0750 for any additional fees required under 37 C.F.R. § 1.16 or under 37 C.F.R. § 1.17; particularly, extension of time fees.

Respectfully submitted,
HARNESS, DICKEY, & PIERCE, P.L.C.

By



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